United Nations S/2003/968

Security Council

Distr.: General
6 October 2003

Original: English

Letter dated 2 October 2003 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I write with reference to my letter of 18 July 2003 (S/2003/740).

The Counter-Terrorism Committee has received the attached third report from Israel submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex).

I would be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Inocencio F. **Arias**
Chairman
Security Council Committee established pursuant to
resolution 1373 (2001) concerning counter-terrorism

03-54889 (E) 151003

Annex

Letter dated 30 September 2003 from the Permanent Representative of Israel to the United Nations addressed to the Chairman of the Counter-Terrorism Committee

In response to your letter of 27 June 2003, I have the honour to enclose the additional information to our initial report that was requested by the Counter-Terrorism Committee from the Government of the State of Israel (see enclosure).

The Government of Israel has ensured that all measures taken to combat terrorism comply with all of our obligations under international law, and has adopted measures in accordance with international law, in particular international human rights, refugee and humanitarian law.

I would like to take this opportunity to express my gratitude for the continuing cooperation between the Counter-Terrorism Committee and the Government of Israel.

(*Signed*) Ambassador Dan **Gillerman**
Permanent Representative

Enclosure

Response of Israel to the Counter-Terrorism Committee request for Additional Information.

Further to the Request of the CTC dated 25 April 2003, Israel is pleased to respond to the questions raised by the Committee as follows:

1.2 – Measures to implement the Convention for the Financing of terrorism.

In addition to the existing provisions in Israel laws and regulations which deal with suppression of the financing of terrorism detailed in Israel's previous reports to CTC, Israel has also initiated a new Suppression of the Financing of Terrorism Law implementing the convention.

1.3 – Legislative measures regarding the provision or collection of funds intended for terrorist acts.

Israeli law includes several legislative measures criminalizing the collection of funds intended to be used to carry out terrorist acts even if no terrorist act actually occurs:

***Prevention of Terrorism Ordinance* (1948)**

1) Section 4(d) of the *Prevention of Terrorism Ordinance* provides that a person who gives money or money's worth for the benefit of a terrorist organization is guilty of a crime and is liable to be imprisoned for a term of up to three years and/or a fine currently, pursuant to Section 61(3) of the *Penal Law*, of up to 49,800 NIS (approximately U.S. $10,640). The term "terrorist organization" as defined in the Ordinance means "a body of persons resorting in its activities to acts of violence calculated to cause death or injury to a person or to threats of such acts of violence".

2) Sections 4(e) and (f) of the *Prevention of Terrorism Ordinance* establish as an offence punishable by three years in prison, the provision of a location or an article to a terrorist organization for its use:

> 4.(e) a person who...puts a place at the disposal of anyone in order that that place may serve a terrorist organization or a member of a terrorist organization or its members, regularly or on one particular occasion, as a place of action, meeting, propaganda or storage; or
>
> (f) puts an article at the disposal of anyone in order that that article may serve a terrorist organization or a member of a terrorist organization in carrying out an act on behalf of the terrorist organization.

As can be seen, there is no criminal intent needed for prosecution under this Ordinance.

In addition, the Ordinance makes no distinction between a domestic terrorist act and a foreign one.

3) Section 5 of the *Prevention of Terrorism Ordinance* provides that any property being in a place serving a terrorist organization or its members, regularly or on a particular occasion, as a place of action, meeting, propaganda or storage, and also any property being in the possession or under the control of a member of a terrorist organization, shall be considered the property of a terrorist organization unless the contrary is proved. The term "Member of a terrorist organization" as defined by the Ordinance means a person belonging to a terrorist organization and includes a person participating in its activities, publishing propaganda in favor of a terrorist organization or its activities or aims, or collecting moneys or articles for the benefit of a terrorist organization or activities.

***Penal Law* (1977)**

1) Section 148 of the *Penal Law* establishes as a criminal offence punishable by six months imprisonment, the payment of membership dues to an unlawful organization. The term "unlawful organization" as defined in Section 145 of the Law includes an organization that incites to forcefully or violently overthrow the legal government of the State of Israel or of any other state.

2) Under the general provisions of the *Penal Law*, the terms of this legislation apply also to a citizen or resident of Israel who commits offences outside Israeli territory, or offences which were only partially committed within the territory of the state. It should be noted that the application of this article is limited to those cases in which the offender has not been tried in another country, and that this Section can only be implemented when a number of conditions are satisfied, significantly that the act was also an offence in the country in which it was committed.

If a terrorist attack is not actually committed, the offender may still be found guilty of an offence of attempt.

***Defense Regulations (State of Emergency)* (1945)**

1) Regulation 85(1)(h) establishes as an offence, fund-raising for an unlawful association: "Any person who... collects, receives, requests or demands any donation or subscription for an unlawful association...shall be guilty of an offence."

2) Regulation 84(2)(6) establishes as an offence failure to report to the authorities assets of the unlawful association or to abstain from any transaction involving assets of the unlawful association, unless according to the instructions of the Minister of Finance.

The above regulations do not make a distinction between a domestic terrorist act as opposed to a foreign one.

The financing of terrorism offences specified above apply also when the terrorist or terrorist organizations are located in another jurisdiction or when terrorist acts take place in another jurisdiction.

Still, it should be noted that the Defense Regulations directly link the terrorist acts to the State of Israel, its government or its people. Moreover, although there is no specific requirement in the Prevention of Terrorism Ordinance that the terrorist acts or the terrorist organization should be directed against Israeli or Israeli interests, it may be construed that such link is also required.

However, since Israel ratified the International Convention for the Suppression of the Financing of Terrorism, the offences contained therein clearly fall under the jurisdiction of Israeli courts, regardless of where the terrorists or terrorist organizations are located or where the terrorist acts take place (Section 16 (a) of the Penal Law allows for the prosecution of persons who have committed offences, which the State of Israel is obliged by an International Agreement to punish for, regardless of where offence was committed or the nationality or residency of the offender). Also, the Suppression of the Financing of Terrorism Law will further clarify that it is required to prosecute the offence of terrorist financing even when it was committed without any connection to Israel or the Israeli public.

1.4 – Requests for freezing/seizure of assets linked to terrorism

Seizure of assets is an important temporary measure in money laundering and terrorist financing cases both to assure subsequent forfeiture and to ensure that the funds involved are not put to criminal and terrorist purposes. Israel has several statutory means available to allow it to take measures to freeze or seize assets in response to a foreign request:

1. Under Section 32 of Israel's Criminal Procedure (Arrest and Search) Ordinance (5729-1969), Israeli authorities can seize property that has or may be used in the commission of a crime, or which may constitute the proceeds of a crime, or which may be evidence of a crime. As a practical matter, such seizure cannot exceed a period of six months unless criminal or proceedings commence.

2. Under its Legal Assistance Law, Israel can act to temporarily seize assets used or intended for criminal purposes so as to allow ultimate forfeiture proceedings in the requesting State to be successfully completed, The Legal Assistance Law requires the submission of evidence indicating a basis for the seizure and contains other requirements. The forfeiture and confiscation provisions of the Legal Assistance Law apply to crimes of illegal drugs, terrorism and money laundering.

3. Usually the presence in Israel of funds connected with a crime abroad will mean that a violation of Israel's own Money Laundering Law has occurred. Under those circumstances, Israel can commence its own criminal investigation and can then seize or freeze the assets under the provisions of its domestic money laundering legislation.

On receiving a request for freezing of assets in a terrorism case, Israel would examine which of the above possibilities was most conducive to providing effective and immediate assistance in the particular situation. Israel believes that its present legislative and regulatory frame work allows it to provide full and comprehensive legal assistance to combat international crime, including, in particular, money laundering and international terror. Nevertheless, Israel continues to examine its current procedures, particularly those related to seizure of assets, in the light of accumulating experience, to make sure that they provide maximally effective law enforcement tools.

1.5 - Suspicious or unusual transactions

The Prohibition on Money Laundering Law, 5760-2000 proscribes money laundering as a criminal offence, punishable by up to ten-years imprisonment and heavy fines.

The Law requires the financial institutions mentioned in Section 7(a) (banking corporations) and other financial entities mentioned in the Third Schedule, to identify their clients before performing a property transaction, to report certain property transactions to the database established by the Law, and to maintain records of such transactions.

These reports can be classified into two major groups:

- Regular reports – automatic reports of transactions falling under a size or type that requires automatic reporting.

- Unusual Activity reports - reports of activities perceived by the financial institutions as unusual or reported in accordance with different criteria's stated in the regulations.

The criteria for identifying unusual transactions are provided for in the orders issued in accordance with the Law . There are different orders, which apply to every sector obliged to report under the Law.

The orders establish a general obligation, which lies upon a financial institution to report whenever it perceives a transaction as unusual.

In addition, a general list of transactions is provided. These transactions may be deemed unusual transactions and thus require a report to be filed. One must stress that the criteria provided do not represent a closed list, but merely a sample of criteria that could trigger a report of an unusual transaction. The final assessment as to whether to file a report lies upon the financial institution.

1.6 – Regulatory action

It is our understanding that all regulatory steps have been taken, and terrorist crimes have been added to the Schedule in the Legal Assistance Law.

1.7 – Penalties applicable to currency service providers who fail to register or report.

According to section 111 of the Prohibition on Money Laundering Law, 5760-2000, a currency service provider who fails to register shall be liable to one year of imprisonment or a fine at a rate of three times the fine stipulated in section 61(a)(4) of the Penal Law.

Under section 14(a) of the Law a currency service provider who fails to report a Suspicious transaction could be Subject to a financial sanction at a rate not exceeding ten times the fine specified in Section 61(a)(4) of the Penal Law (approximately 46,000$ x 10).

1.8 – Diamond industry

The provisions of the Prohibition on Money Laundering Law, 5760-2000, govern diamonds as well as other forms of "property", as defined. Diamonds are also specifically defined as "property" in the Second Schedule of the Law for the purposes of the criminal prohibitions contained in Sec. 4 of the Law.

Beyond this, the Israeli diamond market applies unique supervisory and control frameworks. These include internal frameworks (such as ensuring international trade principles and conduct, including disciplinary judgments and sanctions) and governmental control, through the Controller of the diamond profession.

Within the Israeli Diamond Exchange buildings, stringent security measures are followed. These include a strict identification procedure under which no person is allowed to enter the buildings unless he or she was invited by a member of the Exchange, whose office is located inside. Visitor's identification particulars are registered and verified by means of an identity certificate and a picture of the visitor is taken by a computerized entrance supervision system.

1.9 – Fingerprint information

Israeli Authorities, as a matter of procedure, fingerprint all those suspected of criminal activities – and this is especially true of those suspected of security offences. This and other identifying material may be and routinely is compared with the international databases in which Israel participates, primarily that of Interpol. Israeli information is also available to other States and law enforcement agencies as a part of the Interpol database. Israel is also pursuing possibilities of direct bilateral cooperation with other States.

1.10 – New legislation

The Organized Crime Law was enacted on 8 July 2003. The proposed new law on the Suppression of the Financing of Terrorism law was published on November 2002 and it is about to be discussed in near future by the Government of Israel.

1.11 - Bomb Unit Border Team Verification

Yes, such movement is verified by the Team.

1.12 -New Refugee Legislation

No such legislation has been enacted.

1.13 - Legislation in relation to international terrorism conventions

As part of the process of ratifying international conventions, Israel enacts all necessary legislation before ratification can take place. This has also been the case with regard to the terrorism conventions to which Israel is a party.

2 – Assistance and guidance

As Israel has mentioned in contacts with the CTC, it is available and willing to share its experience in the field of counter-terrorism both with the Committee, other international organizations and with like-minded states. In particular, Israel has unfortunately had to develop considerable expertise in the area of dealing with suicide terrorism, in emergency response systems and in the prevention and handling of mass terrorist attacks. Additionally, on the legal front, Israel has significant experience in the development and implementation of counter-terrorism legislation. Israel will be pleased to discuss how best Israel's experience in these fields could be put to the service of the international fight against terrorism with the Committee and with interested states.